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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,110	03/25/2004	Pi-Chu Lin	624-043795	6641

7590                  08/25/2005

WEBB ZIESENHEIM LOGSDON ORKIN & HANSON P.C.  
700 Koppers Building  
436 Seventh Avenue  
Pittsburgh, PA 15219-1818

EXAMINER

CHOI, STEPHEN

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/809,110	LIN, PI-CHU
	Examiner	Art Unit
	Stephen Choi	3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 June 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.  
 4a) Of the above claim(s) 4-9 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3 and 10-16 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 25 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of Species B in the reply filed on 02 June 2005 is acknowledged. The traversal is on the ground(s) that there is no undue burden on the examiner to examine all claims together since a search for the invention of Species A would be coextensive with that for the invention of Species B. This is not found persuasive because Figures 2 and 5 are patentably distinct and the applicant has not traverse the restriction requirement on the ground that the species are not patentably distinct with evidence showing the species to be obvious variants or clearly admit on the record that this is the case. Therefore, rejoinder of species is subject to the allowance of generic claim. However, the invention claimed in the generic claim is held to be unpatentable over the prior art as set forth below, leaving claims joined thereby without a common inventive feature.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

"said second pivot section" lacks positive antecedent basis.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Brancato et al. (US 2,181,009).

Brancato discloses all the recited elements of the invention including an electric driving unit including a rotary driving member (8) and a cutting unit including a first cutting member (A) and a second cutting member (B) pivotable relative to the first cutting member (at 17). Regarding claim 2, a casing (at 7). Regarding claim 3, a power mechanism (page 1, right col. line 8). Regarding claim 10, a base plate (11), the first cutting member including a mounting section, a connecting section, and a first blade section and the second cutting member including a pivot section, a driven section, and a second blade section (Figure 3), and a pivot connection member (at 17). Regarding claim 11, at 16. Regarding claim 12, a drive post (14).

#### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brancato.

Brancato discloses the invention substantially as claimed including a biasing member (23). Brancato fails to disclose the biasing member disposed between the first and second cutting members. Instead, Brancato teaches the biasing member disposed between the second cutting members and a side wall of a head. However, it would have been an obvious matter of design choice to a person of ordinary skill in the art at the time the invention was made to anchor an end of the biasing member attached to the side wall to the first cutting member because such a modification would have performed equally well and would not have destroyed the function of the basic reference since the first cutting member is also fixed to the head. The court has held that rearranging parts of an invention involves only routine skill in the art. Regarding claims 15-16, Brancato fails to disclose an extension spring and a connecting plate. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ an extension spring and a connecting plate on the device of Brancato since the examiner takes Official Notice on the use of extension spring and connecting plate as old and well known in the art for the purpose of biasing two pivotable members and pivotally connecting a movable member to a fixed member.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kammlade, Koons, Happe, Glaus, and Tu are cited to show related devices.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 571-272-4504. The examiner can normally be reached on Monday-Friday 9:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sc  
19 August 2005

  
STEPHEN CHOI  
PRIMARY EXAMINER